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IN THE

Supreme Court of the United States

OCTOBER TERM, 1932.

NO. 464.

AMY ARZT and JOSEPHINE RAMSEY,
Petitioners
(Appellants Below),

v.

RUDOLPH B. FLEISCHEM, et al., as Reorganization Committee, etc., BANKERS TRUST COMPANY, as Trustee, NATIONAL RADIATOR CORPORATION, Delaware, NATIONAL RADIATOR CORPORATION, Maryland, ROBERT S. WATERS and WILLIAM G. HEINER, as Receivers, etc., and CARL E. RESLEY and G. FRANKLIN LUDINGTON,
Respondents
(Appellees Below).

BRIEF FOR BANKERS TRUST COMPANY AS TRUSTEE IN OPPOSITION TO THE PETITION OF AMY ARZT AND JOSEPHINE RAMSEY FOR A WRIT OF CERTIORARI.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1932.

NO. 964.

AMY ARZT and JOSEPHINE RAMSEY,

Petitioners
(*Appellants Below*)

v.

RUDOLPH B. FLERSHEM, CHARLES O. CORNELL, JOHN H. WATERS and FRANK B. CAHN, as the Reorganization Committee Constituted Under the Plan and Agreement, Dated February 11, 1931, for the Reorganization of National Radiator Corporation, BANKERS TRUST COMPANY, as Trustee, NATIONAL RADIATOR CORPORATION, Delaware, NATIONAL RADIATOR CORPORATION, Maryland, ROBERT S. WATERS and WILLIAM G. HEINER, as Receivers of National Radiator Corporation, Delaware, and CARL E. RESLEY and G. FRANKLIN LUDINGTON,

Respondents
(*Appellees Below*),

FIRST NATIONAL BANK OF CINCINNATI, INTERNATIONAL HEATER COMPANY and EDWARD J. RAMSEY,

Respondents
(*Appellants Below*).

BRIEF FOR BANKERS TRUST COMPANY AS TRUSTEE IN OPPOSITION TO THE PETITION OF AMY ARZT AND JOSEPHINE RAMSEY FOR A WRIT OF CERTIORARI.

As appears from the petition and the brief in support thereof, this Respondent is Trustee of the issue of

debentures of National Radiator Corporation, of which $10,673,000 face amount are outstanding. (Record pp. 128 and 164). At the request of the Reorganization Committee as holders of substantially all of the issue, this Respondent intervened in the receivership in the District Court, by leave of that Court obtained a judgment against National Radiator Corporation for the amount of the outstanding debentures with interest and prayed for the sale of the property. (Record pp. 128, 136 and 137). The legal position of this Respondent as Intervenor in the receivership cause in the District Court is not assailed. What is attacked is the jurisdiction of the District Court over the receivership as such and the propriety of the action of the District Court in appointing receivers upon the bill of complaint of the Reorganization Committee as filed. The fairness of the Plan of Reorganization is not apparently seriously attacked. (Petition pp. 15 and 16).

The brief of the Reorganization Committee deals adequately and in detail with the technical aspects of the jurisdictional question. This respondent desires, therefore, merely to state that in its opinion, this Court should determine upon this record that the District Court not only had jurisdiction of the parties and the subject matter, but exercised that jurisdiction with propriety and within the principles laid down by this Court in the cases cited by Petitioners. (Petition P. 16). With the evident desire of an overwhelming majority of the debentureholders, whom this Respondent represents, to accomplish a reorganization along the lines laid down in the Plan, this Trustee cannot but sympathize. It appearing that this receivership was instituted in order to obtain a judicial determination of the rights of the debentureholders and other creditors and a judicial sale of the debtor's property, this Respondent has no

hesitation in stating to this Court that in its opinion, the jurisdiction of the District Court was properly invoked for that purpose and for the essential conservation of the assets of the National Radiator Corporation pending that determination. Such, it seems to us was the essential purpose of this receivership—a purpose with which we think this Court cannot but approve.

A WRIT OF CERTIORARI SHOULD BE DENIED.

Respectfully submitted,

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